

Utah Seed Act (Chapter 16)

4-16-1. Short title.

This chapter shall be known and may be cited as the "Utah Seed Act."

4-16-2. Definitions.

As used in this chapter:

(1) "Advertisement" means any representation made relative to seeds, plants, bulbs, or ground stock other than those on the label of a seed container, disseminated in any manner.

(2) "Agricultural seeds" mean seeds of grass, forage plants, cereal crops, fiber crops, sugar beets, seed potatoes, or any other kinds of seed or mixtures of seed commonly known within this state as agricultural or field seeds.

(3) "Flower seeds" mean seeds of herbaceous plants grown for their blooms, ornamental foliage, or other ornamental plants commonly known and sold under the name of flower seeds in this state.

(4) "Foundation seed," "registered seed," or "certified seed" means seed that is produced and labeled in accordance with procedures officially recognized by a seed certifying agency approved and accredited in this state.

(5) (a) "Hybrid" means the first generation seed of a cross produced by controlling pollination and by combining:

(i) two or more inbred lines;

(ii) one inbred or a single cross with an open-pollinated variety; or

(iii) two varieties or species, except open-pollinated varieties of corn, Zea mays.

(b) The second generation and subsequent generations from the crosses referred to in Subsection (a) are not to be regarded as hybrids.

(c) Hybrid designations shall be treated as variety names.

(6) "Kind" means one or more related species or subspecies of seed which singly or collectively is known by one name, for example, corn, oats, alfalfa, and timothy.

(7) (a) "Label" means any written, printed, or graphic representation accompanying and pertaining to any seeds, plants, bulbs, or ground stock whether in bulk or in containers.

(b) "Label" includes representations on invoices, bills, and letterheads.

(8) "Lot" means a definite quantity of seed identified by a number or other mark, every part or bag of which is uniform within recognized tolerances.

(9) "Noxious-weed seeds" mean weed seeds declared noxious by the commissioner.

(10) "Pure seed," "germination," or other terms in common use for testing seeds for purposes of labeling shall have ascribed to them the meaning set forth for such terms in the most recent edition of "Rules for Seed Testing" published by the Association of Official Seed Analysts.

(11) "Seeds for sprouting" means seeds sold for sprouting for salad or culinary purposes.

(12) "Sowing" means the placement of agricultural seeds, vegetable seeds, flower seeds, tree and shrub seeds, or seeds for sprouting in a selected environment for the purpose of obtaining plant growth.

(13) "Treated" means seed that has received an application of a substance to reduce,

control, or repel certain disease organisms, fungi, insects or other pests which may attack the seed or its seedlings, or has received some other treatment to improve its planting value.

(14) "Tree and shrub seeds" mean seeds of woody plants commonly known and sold under the name of tree and shrub seeds in this state.

(15) "Variety" means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristic, which differentiate it from other plants of the same kind.

(16) "Vegetable seeds" mean seeds of crops grown in gardens or on truck farms that are generally known and sold under the name of vegetable seeds, plants, bulbs, and ground stocks in

this state.

(17) "Weed seeds" mean seeds of any plant generally recognized as a weed within this state.

4-16-3. Department authorized to make and enforce rules -- Cooperation with state and federal agencies authorized.

The department is authorized, subject to Title 63, Chapter 46a, Utah Administrative Rulemaking Act, to make and enforce such rules as in its judgment are deemed necessary to administer and enforce this chapter; and, in conjunction with its administration and enforcement, it is authorized to cooperate with other state agencies, other states, and with the United States Department of Agriculture or other departments or agencies of the federal government.

4-16-4. Labeling requirements specified for containers of agricultural seed, mixtures of lawn and turf seed, vegetable seed, flower seed, tree and shrub seed, and seeds for sprouting.

(1) Each container of agricultural seed offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:

(a) the common name of the kind or kind and variety of each seed component in excess of 5% by weight of the whole and the percent by weight of each component in the order of its predominance, provided that:

(i) if any component is required by rule of the department to be labeled as a variety, the label, in addition to stating the common name of the seed, shall specify the name of the variety or, if allowed by rule of the department, state "Variety Not Stated";

(ii) if any component is a hybrid seed, that fact shall be stated on the label; and

(iii) if more than one component is required to be named, the word "mixture" shall appear;

(b) the name and address of the person who labeled the seed, or who offers or exposes it for sale in this state;

(c) the lot number or other lot identification;

(d) the percentage by weight of all weed seeds;

(e) the percentage by weight of agricultural or crop seeds other than those named on the label;

- (f) the percentage by weight of inert matter;
 - (g) the name and rate of occurrence per pound of each kind of restricted noxious-weed seed for which tolerance is permitted;
 - (h) the origin, if known, of alfalfa, red clover, or field corn and, if the origin is unknown, that fact shall be stated; and
 - (i) the month and year seed tests were conducted specifying:
 - (i) percent of germination, exclusive of hard seed;
 - (ii) percent of hard seed; and
 - (iii) total percent of germination and hard seed.
- (2) Each container of seed mixtures for lawn or turf seed offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:
- (a) the common name of the kind or kind and variety of each agricultural seed component in excess of 5% by weight of the whole, and the percentage by weight of pure seed in order of its predominance in columnar form;
 - (b) the name and address of the person who labeled the seed, or who offers or exposes it for sale in this state;
 - (c) the lot number or other lot identification;
 - (d) the percentage by weight of all weed seeds;
 - (e) the percentage by weight of agricultural seeds or crop seeds other than those required to be named on the label;
 - (f) the percentage by weight of inert matter;
 - (g) the name and rate of occurrence per pound of each kind of restricted noxious-weed seed for which tolerance is permitted;
 - (h) the month and year seed tests were conducted specifying:
 - (i) percent of germination, exclusive of hard seed; and
 - (ii) percent of hard seed;
 - (i) the word "mixed" or "mixture"; and
 - (j) its net weight.
- (3) Each container of vegetable seeds weighing one pound or less offered or exposed for sale or prepared for home gardens or household plantings or preplanted in containers, mats, tapes, or other devices shall be labeled with the following information:
- (a) the common name of the kind and variety of seed;
 - (b) the name and address of the person who labeled the seed, or who offers or exposes it for sale in this state;
 - (c) the calendar month and year the seed was tested or the year for which the seed was packaged;
 - (d) if germination of the seed is less than the germination standard last established for the seed by the department, the label shall specify:
 - (i) percentage of germination, exclusive of hard seed;
 - (ii) percentage of hard seed, if present;
 - (iii) the calendar month and year the germination test was completed to determine the percentages; and
 - (iv) the words "Below Standard" in not less than eight-point type; and
 - (e) if the seeds are placed in a germination medium, mat, tape, or other device which makes it difficult to determine the quantity of the seed without removing the seeds, a statement to indicate the minimum number of seeds in the container.

(4) Each container of vegetable seeds weighing more than one pound offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:

(a) the common name of each kind and variety of seed component present in excess of 5% by weight of the whole and the percentage by weight of each in order of its predominance;

(b) the name and address of the person who labeled the seed, or who offers or exposes it for sale in this state;

(c) the lot number or other lot identification;

(d) the month and year seed tests were conducted specifying:

(i) the percentage of germination, exclusive of hard seed; and

(ii) the percentage of hard seed, if present; and

(e) the name and rate of occurrence per pound of each kind of restricted noxious-weed seed for which tolerance is permitted.

(5) Each container of flower seeds prepared in packets for use in home flower gardens or household plantings or flower seeds in preplanted containers, mats, tapes, or other planting devices and offered or exposed for sale in this state shall be labeled with the following information:

(a) the common name of the kind and variety of the seeds or a statement of the type and performance characteristics of the seed;

(b) the name and address of the person who labeled the seed, or who offers or exposes it for sale in this state;

(c) the calendar month and year the seed was tested or the year for which the seed was packaged;

(d) if germination of the seed is less than the germination standard last established by the department, the label shall specify:

(i) percentage of germination, exclusive of hard seed;

(ii) percentage of hard seed, if present; and

(iii) the words "Below Standard" in not less than eight-point type; and

(e) if the seeds are placed in a germination medium, mat, tape, or other device which makes it difficult to determine the quantity of seed without removing the seeds, a statement to indicate the minimum number of seeds in the container.

(6) Each container of flower seeds in other than packets prepared for use in home flower gardens or household plantings and other than in preplanted containers, mats, tapes, and other devices offered or exposed for sale in this state shall be labeled with the following information:

(a) the common name of the kind and variety of the seed or a statement of the type and performance characteristics of the seed;

(b) the name and address of the person who labeled the seed, or who offers or exposes it for sale in this state;

(c) the lot number or other lot identification;

(d) the month and year the seed was tested, or the year for which it was packaged; and

(e) for those kinds of seeds for which standard testing procedures are prescribed:

(i) the percentage of germination, exclusive of hard seed; and

(ii) the percentage of hard seed, if present.

(7) Each container of tree and shrub seeds offered or exposed for sale or transported

for sowing into this state shall be labeled with the following information:

- (a) the common name of the species of seed and subspecies, if appropriate;
 - (b) the scientific name of the genus and species and subspecies, if appropriate;
 - (c) the name and address of the person who labeled the seed or who offers or exposes it for sale in this state;
 - (d) the lot number or other lot identification;
 - (e) information as to origin as follows:
 - (i) for seed collected from a predominantly indigenous stand, the area of collection given by latitude and longitude, or geographic description, or political subdivision such as state or county; and
 - (ii) for seed collected from other than a predominantly indigenous stand, identity of the area of collection and the origin of the stand or state "origin not indigenous";
 - (f) the elevation or the upper and lower limits of elevation within which said seed was collected;
 - (g) purity as a percentage of pure seed by weight;
 - (h) for those species for which standard germination testing procedures are prescribed by the commissioner, the following:
 - (i) percentage of germination, exclusive of hard seed;
 - (ii) percentage of hard seed, if present; and
 - (iii) the calendar month and year the test was completed to determine such percentages; and
 - (i) for those species for which standard germination testing procedures have not been prescribed by the commissioner, the calendar year in which the seed was collected.
- (8) Each container of seeds for sprouting offered or exposed for sale or transported for sowing into this state shall be labeled with the following information:
- (a) the name and address of the person who labeled the seed, or who offers or exposes it for sale in this state;
 - (b) the commonly accepted name of the kind or kinds in order of predominance;
 - (c) lot number;
 - (d) percentage by weight of each pure seed component in excess of 5% of the whole, other crop seeds, inert matter, and weed seeds, if any;
 - (e) percentage of germination of each pure seed component; and
 - (f) the calendar month and year the seed was tested or the year for which the seed was packaged.
- (9) Any written or printed matter of any label shall appear in English.

4-16-5. Distribution of seeds -- Germination tests required -- Date to appear on label -- Seed to be free of noxious weed seed -- Special requirements for treated seeds -- Prohibitions.

- (1) No person in this state shall offer or expose any agricultural, vegetable, flower, or tree and shrub seed or seeds for sprouting for sale or sowing unless:
- (a) (i) for agricultural seeds, including mixtures of agricultural seeds:
 - (A) a test to determine the percentage of germination has been performed within 18 months, exclusive of the month the seed is tested and the date the seed is offered for sale; and
 - (B) the date of the test appears on the label;

- (ii) for vegetable, flower, or tree and shrub seed or seeds for sprouting:
 - (A) a test to determine the percentage of germination has been performed within nine months, exclusive of the month the seed is tested and the date the seed is offered for sale; and
 - (B) the date of the test appears on the label;
- (iii) for hermetically sealed agricultural, vegetable, flower, or tree and shrub seed:
 - (A) a test to determine the percentage of germination has been performed within 36 months, exclusive of the month the seed is tested and the date the seed is offered for sale; provided, that hermetically sealed seeds may be offered or exposed for sale after 36 months if they have been retested for germination within nine months, exclusive of the month the seed is retested and the date the seeds are offered or exposed for sale; and
 - (B) the date of the test appears on the label;
- (b) its package or other container is truthfully labeled and in accordance with Section **4-16-4**; and
- (c) it is free of noxious weed seed, subject to any tolerance as may be prescribed by the department through rule.
- (2) The label on any package or other container of an agricultural, vegetable, flower, or tree and shrub seed which has been treated and for which a claim is made on account of the treatment, in addition to the labeling requirements specified in Section **4-16-4**, shall:
 - (a) state that the seeds have been treated;
 - (b) state the commonly accepted name, generic chemical name, or abbreviated chemical name of the substance used for treatment;
 - (c) if the seed is treated with an inoculant, state the date beyond which the inoculant is not considered effective; and
 - (d) include a caution statement consistent with rules of the department if the treatment substance remains with the seed in an amount which is harmful to vertebrate animals; provided, that the caution statement for mercurials and similarly toxic substances, as defined by rule of the department, shall state the seed has been treated with poison with "POISON" printed in red letters on a background of distinctly contrasting color together with a representation of the skull and crossbones.
- (3) A person may not:
 - (a) use the word "trace" as a substitute for a statement required under this chapter;
 - (b) disseminate any false or misleading advertisement about agricultural, vegetable, flower, or tree and shrub seed or seeds for sprouting; or
 - (c) detach, alter, or destroy any label or substitute any seed in a manner which defeats the purpose of this chapter.

4-16-6. Chapter does not apply to seed not intended for sowing, to seed at seed processing plant, or to seed transported or delivered for transportation in the ordinary course of business.

This chapter does not apply to:

- (1) seed or grain not intended for sowing;
- (2) seed at, or consigned to, a seed processing or cleaning plant; provided, that any label or any other representation which is made with respect to the uncleaned or unprocessed seed is subject to this chapter; or

(3) to any carrier in respect to any seed transported or delivered for transportation in the ordinary course of its business as a carrier; provided, the carrier is not engaged in producing, processing, or marketing agricultural, vegetable, flower, or tree and shrub seeds or seeds for sprouting.

4-16-7. Inspection -- Samples -- Analysis -- Seed testing facilities to be maintained -- Rules to control offensive seeds -- Notice of offending seeds -- Warrants.

(1) (a) The department shall periodically enter public or private premises from which seeds are distributed, offered, or exposed for sale to sample, inspect, analyze, and test agricultural, vegetable, flower, or tree and shrub seeds or seeds for sprouting distributed within this state to determine compliance with this chapter.

(b) To perform the duties specified in Subsection (a), the department shall:

- (i) establish and maintain facilities for testing the purity and germination of seeds;
- (ii) prescribe by rule uniform methods for sampling and testing seeds; and
- (iii) establish fees for rendering service.

(2) The department shall prescribe by rule weed seeds and noxious weed seeds and fix the tolerances permitted for those offensive seeds.

(3) If a seed sample, upon analysis, fails to comply with this chapter, the department shall give written notice to that effect to any person who is distributing, offering, or exposing the seeds for sale. Nothing in this chapter, however, shall be construed as requiring the department to refer minor violations for criminal prosecution or for the institution of condemnation proceedings if it believes the public interest will best be served through informal action.

(4) The department may proceed immediately, if admittance is refused, to obtain an ex parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises for the purpose of making inspections and obtaining samples.

4-16-8. Enforcement -- Stop sale, use, or removal authorized -- Court action -- Procedures -- Costs.

(1) (a) The department may issue a "stop sale, use, or removal order" to the distributor, owner, or person in possession of any designated agricultural, vegetable, flower, or tree and shrub seed or seeds for sprouting or lot of seed which it finds or has reason to believe violates this chapter.

(b) The order shall be in writing and no seed subject to it shall be moved, offered, or exposed for sale, except upon subsequent written release by the department.

(c) Before a release is issued, the department may require the distributor or owner of the "stopped" seed or lot to pay the expense incurred by the department in connection with the withdrawal of the product from the market.

(2) The department is authorized in a court of competent jurisdiction to seek an order of seizure or condemnation of any seed which violates this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent injunction to prevent violation of this chapter. No bond may be required of the department in an injunctive proceeding brought under this section.

(3) (a) If condemnation is ordered, the seed shall be disposed of as the court directs.

(b) The court may not order condemnation without giving the claimant of the seed an

opportunity to apply to the court for permission to relabel, reprocess, or otherwise bring the seed into conformance, or for permission to remove it from the state.

(c) If the court orders condemnation, court costs, fees, storage, and other costs shall be awarded against the claimant of the seed.

4-16-9. Designation of official testing agency for certification of seed.

The agricultural experiment station at Utah State University is designated as the official state agency responsible for the production, approval, and testing of foundation seeds in this state. This agency shall perform all functions necessary for seed certification including the determination of the adaptability of established and new crop varieties for planting in this state, whether produced in this state or elsewhere and the determination of eligibility of crop varieties for registration and certification in the state. In performing its responsibility, the experiment station may contract, subject to available funds, upon such terms and conditions as it deems appropriate with a private seed certifying agency.

4-16-10. False or misleading advertising with respect to seed quality prohibited.

Unless agricultural, vegetable, flower, or tree and shrub seeds or seeds for sprouting sold, advertised, or exposed or offered for sale in this state for propagation or planting have been registered or certified by an officially recognized seed certifying agency approved and accredited in this state, a person may not:

(1) use orally or in writing:

(a) the term "foundation," "registered," or "certified" seed along with other words; or

(b) any other term or form of words which suggests that the seed has been certified or registered by an inspection agency duly authorized by any state, or that there has been registration or certification, or either; or

(2) use any tags similar to registration or certification tags.

4-16-11. Distributors of seed to keep record of each lot of seed distributed.

(1) Each person whose name appears on the label of agricultural, vegetable, flower, or tree and shrub seeds or seeds for sprouting shall keep a complete record of each lot of agricultural, vegetable, flower, tree and shrub seed or seeds for sprouting distributed in this state for a period of two years and a file sample of each lot of seed for a period of one year after final disposition of the lot.

(2) The records and samples pertaining to the distribution of the seeds shall be available to the department for inspection during regular business hours.